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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Federal Communications Commission
Washington, D.C. 20554

AUG 1 8 1998

EX PARTE OR LATE FILED

CC Docket # 96-128

The Honorable Jesse A. Helms
United States Senate
403 Dirksen Senate Office Building
Washington, D.C. 20510-3301

Dear Senator Helms:

Thank you for your letter forwarding the concerns of your constituents, Mr. Mike Murphy and Ms. Becky Pressley, regarding a fee that may be added to some consumers' telephone bills by carriers to recover their contributions to the universal service support mechanisms and a fee that may be assessed by payphone providers, respectively.

With respect to Mr. Murphy's inquiry about the universal service support mechanisms, on May 7, 1997, the Federal Communications Commission (Commission) adopted a first Report and Order to implement the Federal-State Joint Board's recommendations on universal service as required by the Telecommunications Act of 1996 (1996 Act). The Commission established universal service support mechanisms that fulfill Congress's goal, as stated in section 254 of the 1996 Act, of ensuring that affordable, quality telecommunications services are available to all American consumers, including low income consumers and those located in high cost, rural, and insular areas. In addition, these mechanisms implement Congress's mandate to ensure the nation's classrooms and libraries receive access to the vast array of educational resources that are accessible through the telecommunications network. These support systems also will link health care providers located in rural areas to urban medical centers so that patients living in rural America will have access, through the telecommunications network, to the same advanced diagnostic and other medical services that are enjoyed in urban communities.

The 1996 Act requires all telecommunications carriers that provide interstate telecommunications services to contribute on an equitable and nondiscriminatory basis to universal service. The Commission implemented this statutory provision by requiring all such telecommunications carriers to contribute to the universal service support mechanisms. Neither Congress, nor the Commission, requires such carriers to pass this contribution on to their customers. To the contrary, carriers decide how and to what extent they recover their contributions. Carriers, however, may not mislead customers as to how they recover contributions and may only recover an equitable share from any particular customer.

The Commission is monitoring the universal service support mechanisms and their impact on telephone ratepayers. This issue will be carefully reviewed as the support

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mechanisms are administered. Per Mr. Murphy's request, I have enclosed a copy of section 254 of the 1996 Act regarding the universal service support mechanisms for schools and libraries. I have also enclosed a copy of the Commission's Consumer Information brochure on the universal service support mechanisms.

With respect to Ms. Pressley's inquiry regarding the payphone compensation proceeding, section 276 of the 1996 Act requires the Commission to establish a plan by which payphone providers receive "fair compensation" for all completed intrastate and interstate calls, including coinless 800 calls, that originate from their payphones. The Commission adopted orders in 1996 implementing the requirements of section 276. In October 1997, after carefully considering public comment, the Commission adopted rules that require interexchange carriers to compensate payphone providers a default rate of 28.4 cents for each coinless 800 payphone call, unless the carrier and the provider have otherwise agreed to a different rate. Although not required by the Commission, some carriers have, in turn, passed this cost on to the 800 number subscribers receiving calls from payphones.

The 28.4-cent per-call default rate was adopted after extensive economic analysis of what payphone providers were due for each 800 call. The Commission concluded that the best measure of "fair compensation" for coinless calls would be to start with the local coin call rate of 35 cents, the rate in the majority of states that had deregulated local calls, and adjust for cost differences between coin and coinless calls. This calculation resulted in the per-call rate of $.284. The Commission also conducted a "bottoms up" calculation by adding all the costs incurred in providing the service that further supported the reasonableness of this per-call rate.

On May 15, 1998, the Court of Appeals, however, remanded the Commission's decision establishing the default per-call rate of 28.4 cents. The court held that the Commission had not adequately explained the methodology used to develop the per-call rate. The Commission is currently evaluating this matter in light of the court's decision. In addition, eleven parties have filed petitions for reconsideration of the 28.4 cent per-call compensation rate. We will include Ms. Pressley's letter in the docket file for consideration in this proceeding.

Again, thank for your letter. Should Mr. Murphy have any further questions regarding the universal service support mechanisms, he may contact the Common Carrier Bureau's Accounting Policy Division at (202) 418-7400. Should Ms. Pressley have any further questions regarding the payphone compensation proceeding, she may contact the Common Carrier Bureau's Enforcement Division at (202) 418-0960.

Sincerely,

Kathryn C. Brown

Kathryn C. Brown
Chief
Common Carrier Bureau

Enclosures

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303336

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May 22, 1998

Jesse A Helms (R)
403 Dirkson Senate Office Building
Washington DC 20510-3301

Dear Senator Jesse A Helms:

My company, C & L Transportation Inc, is suffering a huge financial hardship from the Federal Communications Commission payphone compensation order and we need your help in convincing the FCC to amend its ruling. The 28.4 cents compensation my company must pay for each and every 800 number payphone call will increase my costs, increasing my annual 800 line phone charges approximately $4500.00 per year.

Even though the 28.4 cent rate provides an enormous windfall for payphone owners, my company has no ability to negotiate a lower rate. Blocking calls from payphones is not an option for my company. Our drivers must be able to reach us from any available payphone. Indeed, since call blocking is an all or nothing proposition (block all calls or accept all calls), I doubt that blocking is an option for many businesses. Additionally, there is no competition at payphone locations. At truck stops and other locations our drivers use there is almost always only one payphone provider. Therefore, there really is no competition payphone market and thus no market rate for coin or coinless calls.

The only fair way to compensate payphone providers for coinless calls is on a cost basis. Congress never intended for payphone owners to receive a huge windfall at the expense of 800 line consumers.

Sincerely,

Becky Pressley

Becky Pressley
President